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**U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090**



**U.S. Citizenship
and Immigration
Services**

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FILE:

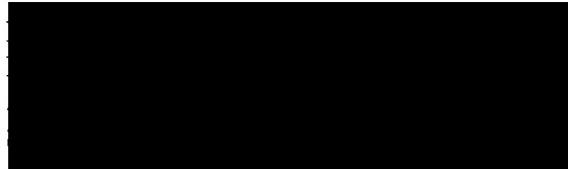
Office: NEBRASKA SERVICE CENTER

AUG 25 2010
Date:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

CELESTE
C. L. HARRIS, JR.
(including letterpress printed)

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DISCUSSION: The Director, Nebraska Service Center (director), denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner claims to be a real estate and mortgage business. It seeks to permanently employ the beneficiary in the United States as a business and marketing strategist. The petitioner requests classification of the beneficiary as a an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The director denied the petition on October 23, 2008. The decision states that the petitioner failed to establish its ability to pay the proffered wage from the priority date until the beneficiary obtains lawful permanent residence. The petitioner appealed the decision to the AAO.

On February 26, 2010, the AAO mailed a request for evidence (RFE) to the petitioner and its counsel of record. The RFE explained that, during the adjudication of the appeal, evidence came to light that the petitioner's corporate status had been suspended by the State of California.¹ The RFE instructed the petitioner to provide evidence that it was in active status.² The RFE also informed the petitioner that, if it did not respond within 45 days, the AAO would dismiss the appeal without further discussion.

To date, the AAO has not received a response to its RFE. The petitioner has failed to respond to this office's request for proof that the petitioner remains in operation and in active status. Thus, the appeal will be dismissed as abandoned. The record does not establish that a bona fide job offer continues to exist. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.

¹*See* <http://kepler.sos.ca.gov/> (last accessed August 22, 2010).

²The AAO maintains plenary power to review each appeal on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

